The Examiner has rejected claims 1-19 under 35 U.S.C. §103 as obvious over Extremeware Software User's Guide ("Extremeware") in view of Sistanizadeh.

In the Final Office Action, the Examiner directs Applicant's attention to an oblique reference to fiber in the "Troubleshooting" section. In a document that spans over 400 pages, there is no other mention of fiber, let alone a wide area optical network. The troubleshooting section reads as follows:

> No link light on Gigabit fiber port:
>
> Check to ensure that the transmit fiber goes to the receive fiber side of the other device, and vice-versa. All gigabit fiber cables are of the cross-over type.
>
> The Extreme switch has auto-negotiation set to on by default for gigabit ports. These ports need to be set to auto off (using the command config port <port #> auto off) if you are connecting it to devices that do not support auto-negotiation.
>
> Ensure that you are using multi-mode fiber (MMF) when using a 1000BASE-SX GBIC, and single mode fiber (SMF) when using a 1000BASE-LX GBIC. 1000BASE-SX does not work with SMF. 1000BASE-LX works with MMF, but requires the use of a mode conditioning patchcord (MCP).

ESUG, pp. B-5, B-6.

This reference to MMF makes no mention of any topology. Claims 1 and 10 require a wide area fiber optic network *having a dual overlay ring topology*—a physical requirement, not a software requirement--that is simply not disclosed. This physical topology provides the physical basis for implementing other of the claimed elements.

For this, the Examiner turns to Sistanizadeh, which itself talks about switches—but different switches that do not run Extremeworks. Obviously, Sistanazadeh did not contemplate the combination of any dual ring with the ESRP failover transition claimed, a fact which the Examiner evidently concedes.

The Examiner points to the following passage in Sistanizadeh as arguably identifying a dual-overlay ring topology:

> Several aspects of the invention preferably are implemented in a regional-area network, for data communications. The regional-area network includes a number of access ring networks. Each access ring network comprises edge-point of presence (E-POP) switches and data links from the E-POP switches to individual customer locations. The regional-area network includes at least one and preferably two mega-point of presence (M-POP) switches. A redundant optical fiber access ring interconnects the E-POP switches and connects to the one or more M-POP switches. The regional network also includes a redundant optical fiber backbone ring interconnecting the M-POP switches of the various access ring networks in the particular region. At least one giga-point of presence (G-POP) switch, coupled to the redundant optical fiber backbone ring, provides data communication to and from a wide area data network such as the Internet.

Col. 2, lines 24-48.

A dual overlay ring topology, however, is more than merely a redundant ring. It requires two distinct physical paths. Prior art telecommunications carriers had their cables running under the same streets and in the same conduits. As the specification discloses, the claimed invention implicates both physical and logical redundancy. *See* pp. 15, 16 & Fig. 4. Not even the former is shown in Sistanizadeh. An amendment to claims 1 and 10 clarifies this distinction.

Nor does it follow that the combination of references teaches the use of the claimed invention. On the contrary, Sistanizadeh is precisely the prior art that the present invention overcomes: regional fiber ring networks without a failover transition system of the type claimed. It is the innovative topology described which enables the use of the claimed process. As explained in the specification:

> Layer 2, known as the bridging or switching layer, allows edge IP equipment addressing and attachment. It forwards packets based on the unique Media Access Control ("MAC") address of each end station. Data packets consist of both infrastructure content, such as MAC addresses and other information, and end-

user content. At Layer 2, generally no modification is required to packet infrastructure content when going between like Layer 1 interfaces, like Ethernet to Fast Ethernet. However, minor changes to infrastructure content-not end-user data content-may occur when bridging between unlike types such as FOOl and Ethernet. Additionally, the Ethernet service can inter-connect customers to create an "extended" LAN service.

Layer 3, known as the routing layer, provides logical partitioning of subnetworks, scalability, security, and Quality of Service ("QoS"). Therefore, it is desirable that the network remain transparent to Layer 3 protocols such as IP. **This is accomplished by the combination of a particular network topology combined with failure detection/recovery mechanisms, as more fully described herein.**

Specification at pp. 1, 2.

The Examiner further concedes that Extremeware does not disclose the elements: "wherein at least one of said ports flushes a layer 2 forwarding database and <u>rebroadcasts for a new path</u>."

Notwithstanding the absence of this teaching in Extremeware, the Examiner contends that it would have been obvious to have one of the ports flush a layer 2 forwarding database and rebroadcast for a new path. The Examiner directs Applicant's attention to Dynamic FDB discussed in Extremeware. However, the Dynamic FDB, by the Examiner's own admission, does not teach the flushing of a layer 2 forwarding database at all. Moreover, it does not teach the flushing of a layer 2 forwarding database "upon said configuration of said second switch to transition to said master mode," as claimed in claim 1. Accordingly, claim 1 and dependent claims 2-19 are allowable over the prior art of record.
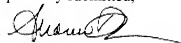
## IV.    Conclusion

In view of the amendments and remarks set forth above, Applicant submits that the pending application is in condition for allowance, which Applicant respectfully requests. Should

the Examiner have any continuing issues with the patentability of the pending claims, he is invited to contact the undersigned to arrange an interview on the matters raised herein.

Dated:   October 24, 2008                    Respectfully submitted,

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